

House Bill 65

By: Representative Powell of the 29<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 42 of the Official Code of Georgia Annotated, relating to penal institutions,  
2 so as to create the division of probation/parole community based supervision; to provide for  
3 the responsibilities of the division with respect to supervision of probationers and parolees;  
4 to transfer responsibility of certain functions of probation and parole supervision to the  
5 division; to provide for the selection, service, and powers and duties of the director and  
6 employees of the division; to provide for rules and regulations and forms; to provide for  
7 administration; to authorize appropriation of funds; to provide for transfer of prior  
8 appropriations; to provide for transfer of personnel, equipment, and facilities; to amend Title  
9 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, to correct  
10 cross-references; to amend Title 17 of the Official Code of Georgia Annotated, relating to  
11 criminal procedure, so as to change provisions relating to imposition and service of split  
12 sentences; to provide for sentencing orders and their terms and effect; to provide that where  
13 a person is sentenced to a term of imprisonment followed by a period of probation and the  
14 person is paroled or released prior to service of the full period of imprisonment, the person  
15 shall be subject to an increased period of probation and probation supervision but shall not  
16 be subject to supervision by the State Board of Pardons and Paroles; to make corresponding  
17 changes with respect to the jurisdiction and authority of the State Board of Pardons and  
18 Paroles; to amend Titles 19, 40, and 45 of the Official Code of Georgia Annotated, relating  
19 to domestic relations, motor vehicles and traffic, and public officers and employees,  
20 respectively, so as to provide for certain changes in the administrative organization of the  
21 Department of Corrections and the State Board of Pardons and Paroles and to provide for  
22 conforming amendments; to provide for related matters; to provide for an effective date and  
23 applicability; to repeal conflicting laws; and for other purposes.

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Title 42 of the Official Code of Georgia Annotated, relating to penal institutions, is amended by adding at its end a new Chapter 14 to read as follows:

**"CHAPTER 14**

42-14-1.

As used in this chapter, the term:

(1) 'Board' means the State Board of Pardons and Paroles.

(2) 'Corrections' means the Department of Corrections.

(3) 'Division' means the division of probation/parole community based supervision.

(4) 'Officer' means a person who acts as a supervisor for a probationer or parolee.

(5) 'Split sentence' means any felony sentence that includes a term of imprisonment followed by a term of probation.

42-14-2.

There is created the division of probation/parole community based supervision which shall be a division of corrections. The division shall be attached to corrections for administrative purposes only, as provided in Code Section 50-4-3. The division shall be primarily responsible for:

(1) Supervision of all defendants who receive a felony sentence of straight probation;

(2) Supervision of all defendants who receive a felony sentence that includes confinement in a probation detention or probation diversion center;

(3) Supervision of all defendants who receive a felony split sentence;

(4) Supervision of all defendants placed on parole or other conditional release from imprisonment by the board;

(5) Supervision of juvenile offenders pursuant to Code Section 42-8-30;

(6) Administration of the laws and regulations relating to probation and parole supervision, as provided for in Chapters 8 and 9 of this title; and

(7) Enforcement of laws and regulations relating to probation and parole supervision, as provided for in Chapters 8 and 9 of this title.

42-14-3.

(a) There shall be a director of the division who shall be both appointed by and serve at the pleasure of the commissioner of corrections. Subject to the policies, rules, and regulations established by the board and corrections, the director shall supervise, direct, account for, organize, plan, administer, and execute the functions of the division.

1 (b) The director shall receive an annual salary to be set by the Governor which shall be his  
2 or her total compensation for services as director. The director shall be reimbursed for all  
3 actual and necessary expenses incurred by him or her in carrying out his or her official  
4 duties.

5 (c) The duties of the division shall be performed by that division and not by any other  
6 agency of state government, and the division shall not perform the duties of any other  
7 agency of state government. The position of director of the division shall be a separate and  
8 distinct position from any other position in state government. The duties of the director  
9 shall be performed by the director and not by any other officer of state government, and the  
10 director shall not perform the duties of any other officer of state government.

11 42-14-4.

12 (a) The director shall establish units within the division as he or she deems proper for its  
13 administration and shall designate persons to be assistant directors of each unit and to  
14 exercise authority as he or she may delegate to them in writing.

15 (b) The director shall have the authority to employ as many persons as he or she deems  
16 necessary for the administration of the division and for the discharge of the duties of his  
17 or her office. The director shall issue all necessary directions, instructions, orders, and  
18 rules applicable to employees of the division. The director shall have authority, as the  
19 director deems proper, to employ, assign, compensate, and discharge employees of the  
20 division within the limitations of the division's appropriation and the restrictions set forth  
21 by law.

22 (c) All employees of the division shall be compensated upon a fixed salary basis, and no  
23 person shall be compensated for services to the division on a commission or contingent fee  
24 basis.

25 (d) Neither the director nor any officer or employee of the division shall be given or  
26 receive any fee, compensation, loan, gift, or other thing of value in addition to the  
27 compensation and expense allowance provided by law for any service or pretended service  
28 either rendered or to be rendered as director or as an officer or employee of the division.

29 42-14-5.

30 (a) The director shall have the power to make and publish reasonable rules and regulations  
31 not inconsistent with this title or other laws or with the Constitution of this state or of the  
32 United States for the administration of this chapter or any law which it is his or her duty  
33 to administer.

(b) The director may prescribe forms as he or she deems necessary for the administration and enforcement of this chapter and Chapters 8 and 9 of this title or any law which it is his or her duty to administer.

(c) The following rules and regulations shall remain of full force and effect as rules and regulations of the division until amended, repealed, or superseded by rules or regulations adopted by the director of the division:

(1) All rules and regulations previously adopted by the Advisory Council for Probation which relate to functions transferred under this chapter from the state-wide probation system to the division;

(2) All rules and regulations previously adopted by corrections which relate to functions transferred under this chapter from corrections to the division; and

(3) All rules and regulations previously adopted by the board which relate to functions transferred under this chapter from the board to the division.

42-14-6.

(a) Appropriations to corrections and the board for functions transferred to the division pursuant to this chapter may be transferred to the division as provided for in Code Section 45-12-90. Personnel, equipment, and facilities previously employed by corrections and the board for transferred functions shall likewise be transferred to the division. Any disagreement as to any of the transfers shall be resolved by the Governor.

(b) The enactment of this chapter and the Act by which it is enacted shall not affect or abate the status of a probation revocation or parole revocation which occurred prior to July 1, 2005."

## SECTION 2.

Said title is further amended by striking Code Section 42-1-10, relating to preliminary urine screen drug tests, and inserting in lieu thereof the following:

"42-1-10.

(a) Any probation/parole supervisor, probation officer, ~~parole officer~~, or other official or employee of the Department of Corrections or the division of probation/parole community based supervision who supervises any person covered under the provisions of paragraphs

(1) through (7) of this subsection shall be exempt from the provisions of Chapter 22 of Title 31 for the limited purposes of administering a preliminary urine screen drug test to any person who is:

(1) Incarcerated;

(2) Released as a condition of probation for a felony or misdemeanor;

(3) Released as a condition of conditional release;

(4) Released as a condition of parole;

(5) Released as a condition of provisional release;

(6) Released as a condition of pretrial release; or

(7) Released as a condition of control release.

(b) The Department of Corrections, the division of probation/parole community based supervision, and the State Board of Pardons and Paroles shall develop a procedure for the performance of preliminary urine screen drug tests in accordance with the manufacturer's standards for certification. Probation officers, probation/parole officers supervisors, or other officials or employees of the Department of Corrections or the division of probation/parole community based supervision who are supervisors of any person covered under paragraphs (1) through (7) of subsection (a) of this Code section shall be authorized to perform preliminary urine screen drug tests in accordance with such procedure. Such procedure shall include instructions as to a confirmatory test by a licensed clinical laboratory where necessary."

### SECTION 3.

Said title is further amended by striking Code Section 42-2-4, relating to the creation of the Department of Corrections, and inserting in lieu thereof the following:

"42-2-4.

There is created the Department of Corrections. The department shall have a division of probation/parole community based supervision within it."

### SECTION 4.

Said title is further amended by striking Code Section 42-8-2, relating to the Advisory Council for Probation's duties and responsibilities, and inserting in lieu thereof the following:

"42-8-2.

(a) As used in this Code section, the term:

(1) 'Board' means the Board of Corrections.

(2) 'Corrections' means the Department of Corrections.

(3) 'Division' means the division of probation/parole community based supervision.

(b) The Advisory Council for Probation shall meet, consult, and advise with the ~~Board of Corrections board, the division, and the Department of Corrections corrections~~ on questions and matters of mutual concern and interest relative to policy, personnel, and budget which pertain to probationary activities, powers, duties, and responsibilities of the board, ~~and the department division, and corrections~~. The advisory council shall institute such studies and surveys and shall make such recommendations to the board, corrections, and ~~department~~

1 the division as the council deems wise and necessary and which, in the opinion of the  
 2 council, will improve the effectiveness and efficiency of probation services rendered  
 3 throughout the state. No change in existing policy of the board, corrections, or the  
 4 ~~department~~ division relative to probation, if the magnitude of the change will result in a  
 5 significant impact upon state-wide probationary services, or any such new policy, shall be  
 6 instituted by the board, corrections, or ~~department~~ the division without opportunity being  
 7 afforded to the advisory council to advise and consult with the board, corrections, or  
 8 ~~department~~ the division on the proposed changes. However, the recommendations of the  
 9 advisory council shall be advisory only and shall not bind the board, corrections, or  
 10 ~~department~~ the division. The board, corrections, the ~~department~~ division, and the council  
 11 shall meet periodically throughout each year for the purpose of improving the  
 12 administration, efficiency, and effectiveness of probation services."

### 13 SECTION 5.

14 Said title is further amended by striking Code Section 42-8-21, relating to definitions in the  
 15 "State-wide Probation Act," and inserting in lieu thereof the following:

16 "42-8-21.

17 As used in this article, the term:

18 (1) 'Board' means the Board of Corrections.

19 (2) 'Commissioner' means the commissioner of corrections.

20 (3) 'Corrections' means the Department of Corrections.

21 (4) 'Division' 'Department' means the Department of Corrections division of  
 22 probation/parole community based supervision.

23 (5) 'Split sentence' means any felony sentence that includes a term of imprisonment  
 24 followed by a term of probation."

### 25 SECTION 6.

26 Said title is further amended by striking Code Section 42-8-22, relating to creation and  
 27 administration of the state-wide probation system, and inserting in lieu thereof the following:

28 "42-8-22.

29 There is created a state-wide probation system for felony offenders to be administered by  
 30 the ~~Department of Corrections~~ division of probation/parole community based supervision.

31 The probation system shall not be administered as part of the duties and activities of the  
 32 State Board of Pardons and Paroles; but, with respect to a split sentence imposed on or after  
 33 July 1, 2005, the division shall have jurisdiction over any increased period of probation  
 34 resulting from a release of the defendant by the State Board of Pardons and Paroles as

1 provided for in Code Section 17-10-1.3. Separate files and records shall be kept with  
2 relation to the system."

### 3 **SECTION 7.**

4 Said title is further amended by striking Code Section 42-8-23, relating to the administration  
5 of supervision of felony probationers by the Department of Corrections, and inserting in lieu  
6 thereof the following:

7 "42-8-23.

8 The ~~department~~ division shall administer the supervision of felony probationers. Nothing  
9 in this Code section shall alter the relationship between judges and probation/parole  
10 supervisors prescribed in this article."

### 11 **SECTION 8.**

12 Said title is further amended by striking Code Section 42-8-24, relating to the general duties  
13 of the department and rules and regulations, and inserting in lieu thereof the following:

14 "42-8-24.

15 It shall be the duty of the ~~department~~ division to supervise and direct the work of the  
16 probation/parole supervisors provided for in Code Section 42-8-25 and to keep accurate  
17 files and records on all probation cases, split sentence probation cases, parole cases,  
18 persons released pursuant to Code Section 17-10-1, and persons ~~on probation under~~  
19 supervision. It shall be the duty of the board to promulgate rules and regulations necessary  
20 to effectuate the purposes of this chapter."

### 21 **SECTION 9.**

22 Said title is further amended by striking Code Section 42-8-25, relating to the employment  
23 of probation supervisors and assignment to circuits, and inserting in lieu thereof the  
24 following:

25 "42-8-25.

26 Corrections The ~~department~~ shall employ probation/parole supervisors. The ~~department~~  
27 division may assign one supervisor to each judicial circuit in this state or, for purposes of  
28 assignment, may consolidate two or more judicial circuits and assign one supervisor  
29 thereto. In the event the ~~department~~ division determines that more than one supervisor is  
30 needed for a particular circuit, an additional supervisor or additional supervisors may be  
31 assigned to the circuit. The ~~department~~ division is authorized to direct any probation/parole  
32 supervisor to assist any other probation/parole supervisor wherever assigned. In the event  
33 that more than one supervisor is assigned to the same office or to the same division within

1 a particular judicial circuit, the ~~department~~ division shall designate one of the supervisors  
2 to be in charge."

3 **SECTION 10.**

4 Said title is further amended by striking Code Section 42-8-26, relating to the qualifications  
5 of probation supervisors, compensation, expenses, conflicts of interest, and bond, and  
6 inserting in lieu thereof the following:

7 "42-8-26.

8 (a) In order for a person to hold the office of probation/parole supervisor, he or she must  
9 be at least 21 years of age at the time of appointment and must have completed a standard  
10 two-year college course, provided that any person who is employed as a probation  
11 supervisor on or before July 1, 1972, shall not be required to meet the educational  
12 requirements specified in this Code section, nor shall he or she be prejudiced in any way  
13 for not possessing the requirements. The qualifications provided in this Code section are  
14 the minimum qualifications and ~~the department~~ corrections is authorized to prescribe such  
15 additional and higher educational qualifications from time to time as it deems desirable, but  
16 not to exceed a four-year standard college course.

17 (b) The compensation of the probation/parole supervisors shall be set by the State  
18 Personnel Board and the State Merit System of Personnel Administration. Probation/parole  
19 supervisors shall also be allowed travel and other expenses as are other state employees.

20 (c)(1) No supervisor shall engage in any other employment, business, or activities which  
21 interfere or conflict with his or her duties and responsibilities as probation/parole  
22 supervisor.

23 (2) No supervisor shall own, operate, have any financial interest in, be an instructor at,  
24 or be employed by any private entity which provides drug or alcohol education services  
25 or offers a DUI Alcohol or Drug Use Risk Reduction Program certified by the  
26 Department of Human Resources.

27 (3) No supervisor shall specify, directly or indirectly, a particular DUI Alcohol or Drug  
28 Use Risk Reduction Program which a probationer may or shall attend. This paragraph  
29 shall not prohibit any supervisor from furnishing any probationer, upon request, the  
30 names of certified DUI Alcohol or Drug Use Risk Reduction Programs. Any supervisor  
31 violating this paragraph shall be guilty of a misdemeanor.

32 (d) Each probation/parole supervisor shall give bond in such amount as may be fixed by  
33 ~~the department~~ corrections payable to ~~the department~~ corrections for the use of the person  
34 or persons damaged by his or her misfeasance or malfeasance and conditioned on the  
35 faithful performance of his or her duties. The cost of the bond shall be paid by ~~the~~  
36 ~~department~~ corrections; provided, however, that the bond may be procured, either by ~~the~~



1 ~~department~~ corrections or by the Department of Administrative Services, under a master  
2 policy or on a group blanket coverage basis, where only the number of positions in each  
3 judicial circuit and the amount of coverage for each position are listed in a schedule  
4 attached to the bond; and in such case each individual shall be fully bonded and bound as  
5 principal, together with the surety, by virtue of his or her holding the position or  
6 performing the duties of probation/parole supervisor in the circuit or circuits, and his or her  
7 individual signature shall not be necessary for such bond to be valid in accordance with all  
8 the laws of this state. The bond or bonds shall be made payable to ~~the department~~  
9 corrections."

#### 10 SECTION 11.

11 Said title is further amended by striking Code Section 42-8-27, relating to the duties  
12 probation supervisors, and inserting in lieu thereof the following:

13 "42-8-27.

14 The probation/parole supervisor shall supervise and counsel probationers in the judicial  
15 circuit to which he or she is assigned. Each supervisor shall perform the duties prescribed  
16 in this chapter and ~~such~~ other duties as are prescribed by the ~~department~~ division and shall  
17 keep ~~such~~ records and files and make ~~such~~ any reports as are required of him or her."

#### 18 SECTION 12.

19 Said title is further amended by striking Code Section 42-8-28, relating to the assignment of  
20 probation supervisors among the judicial circuits, and inserting in lieu thereof the following:

21 "42-8-28.

22 Probation/parole supervisors shall be assigned among the respective judicial circuits based  
23 generally on the relative number of persons on probation and parole in each circuit."

#### 24 SECTION 13.

25 Said title is further amended by striking Code Section 42-8-29, relating to presentence  
26 investigations, supervision of probationers, and record keeping, and inserting in lieu thereof  
27 the following:

28 "42-8-29.

29 (a) It shall be the duty of the probation/parole supervisor to investigate all cases referred  
30 to him or her by the court and to make his findings and report thereon in writing to the  
31 court with his a recommendation. The superior court may require, before imposition of  
32 sentence, a presentence investigation and written report in each felony case in which the  
33 defendant has entered a plea of guilty or nolo contendere or has been convicted.

(b) The probation/parole supervisor shall cause to be delivered to each person placed on probation under his or her supervision a certified copy of the terms of probation and any change or modification thereof and shall cause the person to be instructed regarding the same. ~~He~~ The probation/parole supervisor shall keep informed concerning the conduct, habits, associates, employment, recreation, and whereabouts of the probationer by visits, by requiring reports, or in other ways. ~~He~~ The probation/parole supervisor shall make ~~such~~ reports in writing or otherwise as the court may require. ~~He~~ The probation/parole supervisor shall use all practicable and proper methods to aid and encourage persons on probation and to bring about improvements in their conduct and condition.

(c) The probation/parole supervisor ~~He~~ shall keep records on each probationer and parolee referred to ~~him~~ the probation/parole supervisor."

#### SECTION 14.

Said title is further amended by striking Code Section 42-8-29.1, relating to disposition of a probation supervisor's documents upon committing a defendant to an institution, and inserting in lieu thereof the following:

"42-8-29.1.

(a) When a convicted person is committed to an institution under the jurisdiction of ~~the department corrections~~, any presentence or post-sentence investigation or psychological evaluation compiled by a probation/parole supervisor or other probation official shall be forwarded to ~~any~~ the division or ~~any~~ office designated by the commissioner. Accompanying this document or evaluation will be the case history form and the criminal history sheets from the Federal Bureau of Investigation or the Georgia Crime Information Center, if available, unless any ~~such~~ of this information has previously been sent to ~~the department corrections~~ pursuant to Code Section 42-5-50. A copy of these same documents shall be made available for the State Board of Pardons and Paroles. A copy of one or more of these documents, based on need, may be forwarded to another institution to which the defendant may be committed.

(b) The prison or institution receiving these documents shall maintain the confidentiality of the documents and the information contained therein and shall not send them or release them or reveal them to any other person, institution, or agency without the express consent of the ~~probation~~ unit which originated or accumulated the documents."

**SECTION 15.**

Said title is further amended by striking Code Section 42-8-30, relating to supervision of juvenile offenders by probation supervisors, and inserting in lieu thereof the following:

"42-8-30.

In the counties where no juvenile probation system exists, juvenile offenders, upon direction of the court, shall be supervised by probation/parole supervisors. Other than in this respect, nothing in this article shall be construed to change or modify any law relative to probation as administered by any juvenile court in this state."

**SECTION 16.**

Said title is further amended by striking Code Section 42-8-31, relating to collection and disbursement of funds by probation supervisors, record keeping, and bank accounts, and inserting in lieu thereof the following:

"42-8-31.

No probation/parole supervisor shall collect or disburse any funds whatsoever, except by written order of the court; and it shall be the duty of the supervisor to transmit a copy of the order to the ~~department~~ division not later than 15 days after it has been issued by the court. Every supervisor who collects or disburses any funds whatsoever shall faithfully keep the records of accounts as are required by the ~~department~~ division, which records shall be subject to inspection by the ~~department~~ division at any time. In every instance where a bank account is required, it shall be kept in the name of the 'State Probation Office.'"

**SECTION 17.**

Said title is further amended by striking Code Section 42-8-32, relating to funds which may be collected by probation supervisors, and inserting in lieu thereof the following:

"42-8-32.

No probation/parole supervisor shall be directed to collect any funds other than funds directed to be paid as the result of a criminal proceeding."

**SECTION 18.**

Said title is further amended by striking Code Section 42-8-33, relating to auditing probation supervisors' accounts and restrictions on refunding overpayments of fines, restitution, or moneys owed, and inserting in lieu thereof the following:

"42-8-33.

(a) The ~~department~~ division shall make periodic audits of each probation/parole supervisor who, by virtue of ~~his~~ the supervisor's duties, has any moneys, fines, court costs, property, or other funds coming into ~~his~~ the supervisor's control or possession or being disbursed by

1 ~~him~~ the supervisor. The ~~department~~ division shall keep a permanent record of the audit of  
2 each probation/parole supervisor's accounts on file. It shall be the duty of the employee  
3 of the ~~department~~ division conducting the audit to notify the ~~department~~ division in writing  
4 of any discrepancy of an illegal nature that might result in prosecution. The ~~department~~  
5 division shall have the right to interview and make inquiry of certain selected payors or  
6 recipients of funds, as it may choose, without notifying the probation/parole supervisor, to  
7 carry out the purposes of the audit. The employee who conducts the audit shall be required  
8 to give bond in such amount as may be set by the ~~department~~ division, in the same manner  
9 and for the same purposes as provided under Code Section 42-8-26 for the bonds of  
10 probation/parole supervisors. The bond shall bind the employee and ~~his~~ the surety in the  
11 performance of ~~his~~ the employee's duties.

12 (b) Any overpayment of fines, restitutions, or other moneys owed as a condition of  
13 probation shall not be refunded to the probationer if the amount of ~~such~~ the overpayment  
14 is less than \$5.00."

#### 15 SECTION 19.

16 Said title is further amended by striking subsections (b), (c), and (d) of Code Section 42-8-34,  
17 relating to probation hearings, and inserting in lieu thereof the following:

18 "(b) Prior to the hearing, the court may refer the case to the probation/parole supervisor of  
19 the circuit in which the court is located for investigation and recommendation. The court,  
20 upon such reference, shall direct the supervisor to make an investigation and to report to  
21 the court, in writing at a specified time, upon the circumstances of the offense and the  
22 criminal record, social history, and present condition of the defendant, together with the  
23 supervisor's recommendation; and it shall be the duty of the supervisor to carry out the  
24 directive of the court.

25 (c) Subject to the provisions of subsection (a) of Code Section 17-10-1 and subsection (f)  
26 of Code Section 17-10-3, if it appears to the court upon a hearing of the matter that the  
27 defendant is not likely to engage in a criminal course of conduct and that the ends of justice  
28 and the welfare of society do not require that the defendant shall presently suffer the  
29 penalty imposed by law, the court in its discretion shall impose sentence upon the  
30 defendant but may stay and suspend the execution of the sentence or any portion thereof  
31 or may place ~~him~~ the defendant on probation under the supervision and control of the  
32 probation/parole supervisor for the duration of ~~such probation~~ the sentence. The period of  
33 probation or suspension shall not exceed the maximum sentence of confinement which  
34 could be imposed on the defendant.

35 (d)(1) In every case that a court of this state or any other state sentences a defendant to  
36 probation or any pretrial release or diversion program under the supervision of the

1 ~~department~~ division, in addition to any fine or order of restitution imposed by the court,  
2 there shall be imposed a probation fee as a condition of probation, release, or diversion  
3 in the amount equivalent to \$23.00 per each month under supervision, and in addition,  
4 a one-time fee of \$50.00 where such defendant was convicted of any felony. The  
5 probation fee may be waived or amended after administrative process by the ~~department~~  
6 division and approval of the court, or upon determination by the court, as to the undue  
7 hardship, inability to pay, or any other extenuating factors which prohibit collection of  
8 the fee; provided, however, that the imposition of sanctions for failure to pay fees shall  
9 be within the discretion of the court through judicial process or hearings. Probation fees  
10 shall be waived on probationers incarcerated or detained in a ~~departmental~~ Department  
11 of Corrections or other confinement facility which prohibits employment for wages. All  
12 probation fees collected by the ~~department~~ division shall be paid into the general fund of  
13 the state treasury, except as provided in subsection (f) of Code Section 17-15-13, relating  
14 to sums to be paid into the Georgia Crime Victims Emergency Fund. Any fees collected  
15 by the court under this paragraph shall be remitted not later than the last day of the month  
16 after such fee is collected to the Georgia Superior Court Clerks' Cooperative Authority  
17 for deposit into the general fund of the state treasury.

18 (2) In addition to any other provision of law, any person convicted of a violation of Code  
19 Section 40-6-391 or subsection (b) of Code Section 16-13-2 who is sentenced to  
20 probation or a suspended sentence by a municipal, magistrate, probate, recorder's,  
21 mayor's, state, or superior court shall also be required by the court to pay a one-time fee  
22 of \$25.00. The clerk of court, or if there is no clerk the person designated to collect fines,  
23 fees, and forfeitures for such court, shall collect such fee and remit the same not later than  
24 the last day of the month after such fee is collected to the Georgia Superior Court Clerks'  
25 Cooperative Authority for deposit into the general fund of the state treasury."

## 26 **SECTION 20.**

27 Said title is further amended by striking subsection (a) of Code Section 42-8-34.2, relating  
28 to a defendant's delinquent payment of fines, costs, restitution, or reparation and costs of  
29 garnishment, and inserting in lieu thereof the following:

30 "(a) In the event that a defendant is delinquent in the payment of fines, costs, or restitution  
31 or reparation, as was ordered by the court as a condition of probation, the defendant's  
32 probation/parole supervisor ~~officer~~ is authorized, but not required, to execute a sworn  
33 affidavit wherein the amount of arrearage is set out. In addition, the affidavit shall contain  
34 a succinct statement as to what efforts the ~~department~~ division has made in trying to collect  
35 the delinquent amount. The affidavit shall then be submitted to the sentencing court for  
36 approval. Upon signature and approval of the court, said arrearage shall then be collectable

1 through issuance of a writ of fieri facias by the clerk of the sentencing court; and the  
2 ~~department~~ division may enforce such collection through any judicial or other process or  
3 procedure which may be used by the holder of a writ of execution arising from a civil  
4 action."

## 5 SECTION 21.

6 Said title is further amended by striking Code Section 42-8-35, relating to terms and  
7 conditions of probation, and inserting in lieu thereof the following:

8 "42-8-35.

9 (a) The court shall determine the terms and conditions of probation and may provide that  
10 the probationer shall:

11 (1) Avoid injurious and vicious habits;

12 (2) Avoid persons or places of disreputable or harmful character;

13 (3) Report to the probation/parole supervisor as directed;

14 (4) Permit the supervisor to visit the probationer at the probationer's home or elsewhere;

15 (5) Work faithfully at suitable employment insofar as may be possible;

16 (6) Remain within a specified location;

17 (7) Make reparation or restitution to any aggrieved person for the damage or loss caused  
18 by the probationer's offense, in an amount to be determined by the court. Unless  
19 otherwise provided by law, no reparation or restitution to any aggrieved person for the  
20 damage or loss caused by the probationer's offense shall be made if the amount is in  
21 dispute unless the same has been adjudicated;

22 (8) Make reparation or restitution as reimbursement to a municipality or county for the  
23 payment for medical care furnished the person while incarcerated pursuant to the  
24 provisions of Article 3 of Chapter 4 of this title. No reparation or restitution to a local  
25 governmental unit for the provision of medical care shall be made if the amount is in  
26 dispute unless the same has been adjudicated;

27 (9) Repay the costs incurred by any municipality or county for wrongful actions by an  
28 inmate covered under the provisions of paragraph (1) of subsection (a) of Code Section  
29 42-4-71;

30 (10) Support the probationer's legal dependents to the best of the probationer's ability;

31 (11) Violate no local, state, or federal laws and be of general good behavior;

32 (12) If permitted to move or travel to another state, agree to waive extradition from any  
33 jurisdiction where the probationer may be found and not contest any effort by any  
34 jurisdiction to return the probationer to this state; and

35 (13) Submit to evaluations and testing relating to rehabilitation and participate in and  
36 successfully complete rehabilitative programming as directed by the department.

(b) In determining the terms and conditions of probation for a probationer who has been convicted of a criminal offense against a victim who is a minor as that phrase is defined in subparagraph (a)(4)(B) of Code Section 42-1-12, the court may provide that the probationer shall be:

(1) Prohibited from entering or remaining present at a victim's school, place of employment, place of residence, or other specified place at times when a victim is present or from entering or remaining present in areas where minors congregate, child care facilities, or schools as those terms are defined in subsection (a) of Code Section 42-1-13;

(2) Required to wear a device capable of tracking the location of the probationer by means including electronic surveillance or global positioning systems. Unless the probationer is indigent, the ~~department~~ division shall assess and collect fees from the probationer for such monitoring at levels set by regulation by the ~~department~~ division; and

(3) Prohibited from seeking election to a ~~Local Board of Education~~ local board of education."

## SECTION 22.

Said title is further amended by striking Code Section 42-8-35.1, relating to special alternative incarceration, and inserting in lieu thereof the following:

"42-8-35.1.

(a) In addition to any other terms or conditions of probation provided for under this chapter, the trial judge may provide that probationers sentenced for felony offenses committed on or after July 1, 1993, to a period of time of not less than one year on probation as a condition of probation must satisfactorily complete a program of confinement in a 'special alternative incarceration—probation boot camp' unit of ~~the department~~ corrections for a period of 120 days computed from the time of initial confinement in the unit; provided, however, ~~the department~~ that corrections may release the defendant upon service of 90 days in recognition of excellent behavior.

(b) Before a court can place this condition upon the sentence, an initial investigation ~~will~~ shall be completed by the probation/parole supervisor ~~officer~~ which will indicate that the probationer is qualified for such treatment in that the individual does not appear to be physically or mentally disabled in a way that would prevent him or her from strenuous physical activity, that the individual has no obvious contagious diseases, that the individual is not less than 17 years of age nor more than 30 years of age at the time of sentencing, and that ~~the department~~ corrections has granted provisional approval of the placement of the individual in the 'special alternative incarceration—probation boot camp' unit.

(c) In every case where an individual is sentenced under the terms of this Code section, the sentencing court shall, within its probation order, direct ~~the department~~ corrections to arrange with the sheriff's office in the county of incarceration to have the individual delivered to a designated unit of ~~the department~~ corrections within a specific date not more than 15 days after the issuance of such probation order by the court.

(d) At any time during the individual's confinement in the unit, but at least five days prior to his or her expected date of release, ~~the department~~ corrections will certify to the trial court as to whether the individual has satisfactorily completed this condition of probation.

(e) Upon the receipt of a satisfactory report of performance in the program from ~~the department~~ corrections, the trial court shall release the individual from confinement in the 'special alternative incarceration—probation boot camp' unit. However, the receipt of an unsatisfactory report will be grounds for revocation of the probated sentence as would any other violation of a condition or term of probation.

(f) The satisfactory report of performance in the program from ~~the department~~ corrections shall, in addition to the other requirements specified in this Code section, require participation of the individual confined in the unit in such adult education courses necessary to attain the equivalency of a grade five competency level as established by the State Board of Education for elementary schools. Those individuals who are mentally disabled as determined by initial testing are exempt from mandatory participation. After the individual is released from the unit, it shall be a special condition of probation that the individual participate in an education program in the community until grade five level competency is achieved or active probation supervision terminates. It shall be the duty of ~~the department~~ corrections to certify to the trial court that such individual has satisfactorily completed this condition of probation while on active probation supervision. The receipt of an unsatisfactory report may be grounds for revocation of the probated sentence as would any other violation of a condition or term of probation. Under certain circumstances, the probationer may be exempt from this requirement if it is determined by the probation/parole supervisor officer that community education resources are inaccessible to the probationer."

### SECTION 23.

Said title is further amended by striking subsection (c) of Code Section 42-8-35.4, relating to confinement in probation detention centers, and inserting in lieu thereof the following:

"(c) During the period of confinement, ~~the department~~ corrections may transfer the probationer to other facilities in order to provide needed physical and mental health care or for other reasons essential to the care and supervision of the probationer or as necessary for the effective administration and management of its facilities."



**SECTION 24.**

Said title is further amended by striking subsection (c) of Code Section 42-8-35.5, relating to confinement in probation diversion centers, and inserting in lieu thereof the following:

"(c) Corrections ~~The department~~ may assess and collect room and board fees from diversion center program participants at a level set by ~~the department~~ corrections."

**SECTION 25.**

Said title is further amended by striking Code Section 42-8-35.7, relating to drug and alcohol screening of probationers, and inserting in lieu thereof the following:

"42-8-35.7.

Unless the court has ordered more frequent such screenings, it shall be the duty of each probation/parole supervisor to administer or have administered a drug and alcohol screening not less than once every 60 days to any person who is placed on probation and who, as a condition of such probation, is required to undergo regular, random drug and alcohol screenings, provided that the drug and alcohol screenings required by this Code section shall be performed only to the extent that necessary funds therefor are appropriated in the state budget."

**SECTION 26.**

Said title is further amended by striking subsection (a) of Code Section 42-8-36, relating to a probationer's duties, and inserting in lieu thereof the following:

"(a)(1) Any other provision of this article to the contrary notwithstanding, it shall be the duty of a probationer, as a condition of probation, to keep his or her probation/parole supervisor informed as to his or her residence. Upon the recommendation of the probation/parole supervisor, the court may also require, as a condition of probation and under ~~such~~ any terms as the court deems advisable, that the probationer keep the probation/parole supervisor informed as to ~~his~~ the probationer's whereabouts. The failure of a probationer to report to his or her probation/parole supervisor as directed or a return of non est inventus or other return to a warrant, for the violation of the terms and conditions of probation, that the probationer cannot be found in the county that appears from the records of the probation/parole supervisor to be the probationer's county of residence shall automatically suspend the running of the probated sentence until the probationer shall personally report to the probation/parole supervisor, is taken into custody in this state, or is otherwise available to the court; and such period of time shall not be included in computing creditable time served on probation or as any part of the time that the probationer was sentenced to serve. The effective date of the tolling of the sentence shall be the date that the ~~officer~~ probation/parole supervisor returns the warrant

1 showing non est inventus. Any officer authorized by law to issue or serve warrants may  
2 return the warrant for the absconded probationer showing non est inventus.

3 (2) In addition to the provisions of paragraph (1) of this subsection, if the  
4 probation/parole supervisor submits an affidavit to the court stating that a probationer has  
5 absconded and cannot be found, the running of the probated sentence shall be suspended  
6 effective on the date such affidavit is submitted to the court and continuing until the  
7 probationer shall personally report to the probation/parole supervisor, is taken into  
8 custody in this state, or is otherwise available to the court."

#### 9 SECTION 27.

10 Said title is further amended by striking subsection (b) of Code Section 42-8-37, relating to  
11 terminating and reviewing probation cases, and inserting in lieu thereof the following:

12 "(b) Upon the request of the chief judge of the court from which ~~said~~ a person was  
13 sentenced, the case of each person receiving a probated sentence of more than two years  
14 shall be reviewed by the probation/parole supervisor responsible for that case after service  
15 of two years on probation, and a written report of the probationer's progress shall be  
16 submitted to the sentencing court along with the supervisor's recommendation as to early  
17 termination. Upon the request of the chief judge of the court from which said person was  
18 sentenced, each such case shall be reviewed and a written report submitted annually  
19 thereafter, or more often if required, until the termination, expiration, or other disposition  
20 of the case."

#### 21 SECTION 28.

22 Said title is further amended by striking subsections (a) and (d) of Code Section 42-8-38,  
23 relating to the procedures in probation revocation matters, and inserting in lieu thereof the  
24 following:

25 "(a) Whenever, within the period of probation, a probation/parole supervisor believes that  
26 a probationer under his or her supervision has violated ~~his~~ the terms of probation in a  
27 material respect, ~~he~~ the probation/parole supervisor may arrest the probationer without  
28 warrant, wherever found, and return ~~him~~ the probationer to the court granting the probation  
29 or, if under supervision in a county or judicial circuit other than that of conviction, to a  
30 court of equivalent original criminal jurisdiction within the county wherein the probationer  
31 resides for purposes of supervision. Any officer authorized by law to issue warrants may  
32 issue a warrant for the arrest of the probationer upon the affidavit of one having knowledge  
33 of the alleged violation, returnable forthwith before the court in which revocation  
34 proceedings are being brought."

1 "(d) In cases where the probation is revoked in a county other than the county of original  
2 conviction, the clerk of court in the county revoking probation may record the order of  
3 revocation in the judge's minute docket, which recordation shall constitute sufficient  
4 permanent record of the proceedings in that court. The clerk shall send one copy of the  
5 order revoking probation to ~~the department~~ corrections to serve as a temporary commitment  
6 and shall send the original order revoking probation and all other papers pertaining thereto  
7 to the county of original conviction to be filed with the original records. The clerk of court  
8 of the county of original conviction shall then issue a formal commitment to ~~the department~~  
9 corrections."

#### 10 SECTION 29.

11 Said title is further amended by striking Code Section 42-8-42, relating to the provision of  
12 office space and clerical help by the Department of Corrections and counties, and inserting  
13 in lieu thereof the following:

14 "42-8-42.

15 ~~The department~~ Corrections may provide office space and clerical help wherever needed.

16 The counties of this state shall cooperate in this respect and, wherever possible, shall  
17 furnish office space if needed."

#### 18 SECTION 30.

19 Said title is further amended by striking subsections (b) and (c) of Code Section 42-8-72,  
20 relating to community service as a condition of probation, and inserting in lieu thereof the  
21 following:

22 "(b) The judge may confer with the prosecutor, defense attorney, probation/parole  
23 supervisor, community service officer, or other interested persons to determine if the  
24 community service program is appropriate for an offender. If community service is ordered  
25 as a condition of probation, the court shall order:

26 (1) Not less than 20 hours nor more than 250 hours in cases involving traffic or  
27 ordinance violations or misdemeanors, said service to be completed within one year; or

28 (2) Not less than 20 hours nor more than 500 hours in felony cases, said service to be  
29 completed within three years.

30 (c)(1) Any agency may recommend to the court that certain disabled persons are in need  
31 of a live-in attendant. The judge shall confer with the prosecutor, defense attorney,  
32 probation/parole supervisor, community service officer, or other interested persons to  
33 determine if a community service program involving a disabled person is appropriate for  
34 an offender. If community service as a live-in attendant for a disabled person is deemed  
35 appropriate and if both the offender and the disabled person consent to such service, the

1 court may order such live-in community service as a condition of probation but for no  
2 longer than two years.

3 (2) The agency shall be responsible for coordinating the provisions of the cost of food  
4 or other necessities for the offender which the disabled person is not able to provide. The  
5 agency, with the approval of the court, shall determine a schedule which will provide the  
6 offender with certain free hours each week.

7 (3) Such live-in arrangement shall be terminated by the court upon the request of the  
8 offender or the disabled person. Upon termination of such an arrangement, the court shall  
9 determine if the offender has met the conditions of probation.

10 (4) The appropriate agency shall make personal contact with the disabled person on a  
11 frequent basis to ensure the safety and welfare of the disabled person."

### 12 SECTION 31.

13 Said title is further amended by striking Code Section 42-8-80, relating to the establishment,  
14 operation, rules, and regulations of the Department of Corrections pretrial release and  
15 diversion programs, and inserting in lieu thereof the following:

16 "42-8-80.

17 ~~The Department of Corrections~~ shall be authorized to establish and operate pretrial release  
18 and diversion programs as rehabilitative measures for persons charged with felonies for  
19 which bond is permissible under the law in the courts of this state prior to conviction;  
20 provided, however, that no such program shall be established in a county without the  
21 unanimous approval of the superior court judges, the district attorney, and the sheriff of  
22 such county. The Board of Corrections shall promulgate rules and regulations governing  
23 any pretrial release and diversion programs established and operated by ~~the department~~  
24 corrections and shall grant authorization for the establishment of such programs based on  
25 the availability of sufficient staff and resources."

### 26 SECTION 32.

27 Said title is further amended by striking Code Section 42-8-82, relating to Department of  
28 Corrections contracts with counties for services and facilities, and inserting in lieu thereof  
29 the following:

30 "42-8-82.

31 ~~The Department of Corrections~~ may contract with the various counties of this state for the  
32 services and facilities necessary to operate pretrial release and diversion programs  
33 established under this article and both ~~the department~~ corrections and the counties are  
34 authorized to enter into such contracts as are appropriate to carry out the purpose of this  
35 article."

**SECTION 33.**

Said title is further amended by striking subsection (b) of Code Section 42-8-111, relating to court ordered installation of ignition interlock devices, and inserting in lieu thereof the following:

"(b) Any resident of this state who is ordered to use an ignition interlock device, as a condition of probation, shall complete the DUI Alcohol or Drug Use Risk Reduction Program and submit to the court or ~~probation department~~ division a certificate of completion of the DUI Alcohol or Drug Use Risk Reduction Program and certification of installation of a certified ignition interlock device to the extent required by subsection (a) of this Code section."

**SECTION 34.**

Said title is further amended by striking subsection (a) of Code Section 42-8-114, relating to specifying providers for ignition interlock devices, and inserting in lieu thereof the following:

"(a) No judicial officer, probation officer, probation/parole supervisor, law enforcement officer, or other officer or employee of a court; person who owns, operates, or is employed by a private company which has contracted to provide private probation services for misdemeanor cases; or professional bondsman or agent or employee thereof shall specify, directly or indirectly, a particular provider center which the person may or shall utilize when use of an ignition interlock device is required. This subsection shall not prohibit any judicial officer, probation officer, probation/parole supervisor, law enforcement officer, or other officer or employee of a court; owner, operator, or employee of a private company which has contracted to provide probation services for misdemeanor cases; or professional bondsman or agent or employee thereof from furnishing any person, upon request, the names of certified provider centers."

**SECTION 35.**

Said title is further amended by striking Code Section 42-8-116, relating to warning labels for ignition interlock devices, and inserting in lieu thereof the following:

"42-8-116.

The providers certified by the Department of Motor Vehicle Safety shall design and adopt pursuant to regulations of the ~~department~~ Department of Motor Vehicle Safety a warning label which shall be affixed to each ignition interlock device upon installation. The label shall contain a warning that any person tampering, circumventing, or otherwise misusing the device is guilty of a misdemeanor and may be subject to civil liability."

**SECTION 36.**

Said title is further amended by striking Code Section 42-8-151, relating to definitions relative to the "Probation Management Act of 2004," and inserting in lieu thereof the following:

"42-8-151.

For purposes of this article, the term:

(1) 'Chief probation officer' means the highest ranking field probation officer in each judicial circuit.

(2) 'Commissioner' means the commissioner of corrections.

(3) ~~'Department' means the Department of Corrections~~ 'Division' means the division of probation/parole community based supervision.

(4) 'Electronic monitoring' means supervising, mapping, or tracking the location of a probationer by means including electronic surveillance, voice recognition, facial recognition, fingerprinting or biometric scan, automated kiosk, automobile ignition interlock device, or global positioning systems which may coordinate data with crime scene information.

(5) 'Hearing officer' means an impartial ~~department~~ division employee or representative who has been selected and appointed to hear alleged cases regarding violations of probation for administrative sanctioning.

(6) 'Initial sanction' means the sanction set by the judge upon initial sentencing.

(7) 'Intensive probation' means a level of probation supervision which includes, but is not limited to, curfews, community service, drug testing, program participation, special conditions of probation, and general conditions of probation as set forth in Code Section 42-8-35.

(8) 'Options system day reporting center' means a state facility providing supervision of probationers which includes, but is not limited to, mandatory reporting, program participation, drug testing, community service, all special conditions of probation, and general conditions of probation as set forth in Code Section 42-8-35.

(9) 'Options system probationer' means a probationer who has been sentenced to the sentencing options system.

(10) 'Probation supervision' means a level of probation supervision which includes, but is not limited to, general conditions of probation as set forth in Code Section 42-8-35 and all special conditions of probation.

(11) 'Residential substance abuse treatment facility' means a state correctional facility that provides inpatient treatment for alcohol and drug abuse.

(12) 'Sentencing options system' means a continuum of sanctions for probationers that includes the sanctions set forth in subsection (c) of Code Section 42-8-153."

**SECTION 37.**

Said title is further amended by striking Code Section 42-8-153, relating to administrative sanctions as alternative to judicial modification or revocation of probation, and inserting in lieu thereof the following:

"42-8-153.

(a) The ~~department~~ division is authorized to establish by rules and regulations a system of administrative sanctions as an alternative to judicial modifications or revocations for probationers who violate the terms and conditions of the sentencing options system established under this article. The ~~department~~ division may not, however, sanction probationers for violations of special conditions of probation or general conditions of probation for which the sentencing judge has expressed an intention that such violations be heard by the court pursuant to Code Section 42-8-34.1.

(b) The ~~department~~ division shall only impose restrictions which are equal to or less restrictive than the initial sanction set by the sentencing judge.

(c) The administrative sanctions which may be imposed by the ~~department~~ division are as follows, from most restrictive to least restrictive:

- (1) Probation detention center or residential substance abuse treatment facility;
- (2) Probation boot camp;
- (3) Probation diversion center;
- (4) Intensive probation;
- (5) Options system day reporting center;
- (6) Electronic monitoring;
- (7) Community service; or
- (8) Probation supervision."

**SECTION 38.**

Said title is further amended by striking Code Section 42-8-155, relating to hearings regarding violations, and inserting in lieu thereof the following:

"42-8-155.

(a) If an options system probationer violates the conditions of probation, the ~~department~~ division may impose administrative sanctions as an alternative to judicial modification or revocation of probation.

(b) Upon issuance of a petition outlining the alleged probation violations, the chief probation officer, or his or her designee, may conduct a hearing to determine whether an options system probationer has violated a condition of probation. If the chief probation officer determines that the probationer has violated a condition of probation, the chief probation officer is authorized to impose sanctions consistent with paragraphs (4) through

(8) of subsection (c) of Code Section 42-8-153. The failure of an options system probationer to comply with a sanction imposed by the chief probation officer shall constitute a violation of probation.

(c)(1) Upon issuance of a petition outlining the alleged probation violations, the hearing officer may initiate an administrative proceeding to determine whether an options system probationer has violated a condition of probation. If the hearing officer determines by a preponderance of the evidence that the probationer has violated a condition of probation, the hearing officer may impose sanctions consistent with Code Section 42-8-153.

(2) The administrative proceeding provided for under this subsection shall be commenced within 15 days; but not less than 48 hours after notice of the administrative proceeding has been served on the probationer. The administrative proceeding may be conducted electronically.

(d) The failure of a probationer to comply with the sanction or sanctions imposed by the chief probation officer or hearing officer shall constitute a violation of probation.

(e) An options system probationer may at any time waive a hearing and voluntarily accept the sanctions proposed by the ~~department~~ division."

#### SECTION 39.

Said title is further amended by striking Code Section 42-8-156, relating to finality of hearing officer's decision, and inserting in lieu thereof the following:

"42-8-156.

(a) The hearing officer's decision shall be final unless the options system probationer files an appeal in the sentencing court. Such appeal shall name the commissioner as defendant and shall be filed within 30 days of the issuance of the decision by the ~~department~~ division.

(b) This appeal shall be first reviewed by the judge upon the record. At the judge's discretion, a de novo hearing may be held on the decision. The filing of the appeal shall not stay the ~~department's~~ division's decision.

(c) Where the sentencing judge does not act on the appeal within 30 days of the date of the filing of the appeal, the ~~department's~~ division's decision shall be affirmed by operation of law."

#### SECTION 40.

Said title is further amended by striking Code Section 42-8-158, relating to application only in counties with certified options system day reporting center, and inserting in lieu thereof the following:



1 "42-8-158.

2 This article shall only apply in counties that have an options system day reporting center  
3 certified by the ~~department~~ division."

#### 4 SECTION 41.

5 Said title is further amended by striking Code Section 42-9-3, relating to definitions related  
6 to the State Board of Pardons and Paroles, and inserting in lieu thereof the following:

7 "42-9-3.

8 As used in this chapter, the term:

9 (1) 'Board' "board" means the State Board of Pardons and Paroles.

10 (2) 'Division' means the division of probation/parole community based supervision.

11 (3) 'Split sentence' means any felony sentence that includes a term of imprisonment  
12 followed by a term of probation."

#### 13 SECTION 42.

14 Said title is further amended by striking Code Section 42-9-20, relating to general powers and  
15 duties of the State Board of Pardons and Paroles, and inserting in lieu thereof the following:

16 "42-9-20.

17 (a) In all cases in which the chairman of the board or any other member designated by the  
18 board has suspended the execution of a death sentence to enable the full board to consider  
19 and pass on same, it shall be mandatory that the board act within a period not exceeding  
20 90 days from the date of the suspension order. In the cases which the board has power to  
21 consider, the board shall be charged with the duty of determining which inmates serving  
22 sentences imposed by a court of this state may be released on pardon or parole and fixing  
23 the time and conditions thereof. The board shall also be charged with the duty of  
24 supervising all persons placed on parole, of determining violations thereof and of taking  
25 action with reference thereto, of making ~~such~~ investigations as may be necessary, and of  
26 aiding parolees or probationers in securing employment. It shall be the duty of the board  
27 personally to study the cases of those inmates whom the board has power to consider so as  
28 to determine their ultimate fitness for ~~such~~ relief as the board has power to grant. The  
29 board by an affirmative vote of a majority of its members shall have the power to commute  
30 a sentence of death to one of life imprisonment.

31 (b) With respect to inmates sentenced under split sentences entered on or after July 1,  
32 2005, and all persons paroled or otherwise released by the board prior to completion of his  
33 or her sentence on or after July 1, 2005, the board shall have no duty to supervise inmates  
34 who have been paroled or otherwise released prior to completion of their sentence of  
35 confinement. Supervision of inmates paroled, released, or released from split sentence

1 confinement shall be through an increase in their period of probation, as provided in Code  
2 Section 17-10-1.3. Any reference elsewhere in this chapter to duties of the board with  
3 respect to supervision of parolees and other persons released from confinement shall not  
4 include inmates released from confinement on or after July 1, 2005."

### 5 SECTION 43.

6 Said title is further amended by striking Code Section 42-9-21, relating to supervision of  
7 persons placed on parole or other conditional release, and inserting in lieu thereof the  
8 following:

9 "42-9-21.

10 (a) The board shall have the function and responsibility of supervising all persons placed  
11 on parole or other conditional release by the board prior to July 1, 2005. On and after July  
12 1, 2005, the division shall have the function and responsibility of supervising all persons  
13 placed on parole or other conditional release by the board.

14 (b) The board is and the division are authorized to maintain and operate or to enter into  
15 memoranda of agreement or other written documents evidencing contracts with other state  
16 agencies, persons, or any other entities for transitional or intermediate or other services or  
17 for programs deemed by the board or the division to be necessary for parolees or others  
18 conditionally released from imprisonment by order of the board and to require as a  
19 condition of relief that the offender pay directly to the provider a reasonable fee for said  
20 services or programs.

21 (c) In all cases where restitution is applicable, the board or division shall collect during the  
22 parole period those sums determined to be owed to the victim."

### 23 SECTION 44.

24 Said title is further amended by striking subsection (d) of Code Section 42-9-42, relating to  
25 procedure for granting relief from sentence, conditions, and violations of parole, and  
26 inserting in lieu thereof the following:

27 "(d)(1) Any person who is paroled shall be released on ~~such~~ the terms and conditions as  
28 the board shall prescribe. The board shall diligently see that no peonage is allowed in the  
29 guise of parole relationship ~~or supervision~~. The parolee shall remain in the legal custody  
30 of the board until the expiration of the maximum term specified in ~~his~~ the parolee's  
31 sentence or until ~~he~~ the parolee is pardoned by the board and shall be supervised during  
32 this period of time by the division.

33 (2) The board may require the payment of a parole supervision fee of at least \$10.00 per  
34 month as a condition of parole or other conditional release. The monthly amount shall  
35 be set by rule of the board and shall be uniform state wide. The board may require or the

1 parolee or person under conditional release may request that up to 24 months of the  
2 supervision fee be paid in advance of the time to be spent on parole or conditional release.  
3 In such cases, any advance payments are nonreimbursable in the event of parole or  
4 conditional release revocation or if parole or conditional release is otherwise terminated  
5 prior to the expiration of the sentence being served on parole or conditional release. ~~Such~~  
6 The fees shall be collected by the board to a probation/parole supervisor and shall be paid  
7 into the general fund of the state treasury."

#### 8 SECTION 45.

9 Said title is further amended by striking Code Section 42-9-44, relating to terms and  
10 conditions of parole and violation of parole, and inserting in lieu thereof the following:

11 "42-9-44.

12 (a) The board, upon placing a person on parole, shall specify in writing the terms and  
13 conditions thereof. A certified copy of the conditions shall be given to the parolee.  
14 Thereafter, a copy shall be sent to the clerk of the court in which the person was convicted.  
15 The board shall adopt general rules concerning the terms and conditions of parole and  
16 concerning what shall constitute a violation thereof and shall make special rules to govern  
17 particular cases. The rules, both general and special, may include, among other things, a  
18 requirement that the parolee shall not leave this state or any definite area in this state  
19 without the consent of the board; that the parolee shall contribute to the support of his or  
20 her dependents to the best of the parolee's ability; that the parolee shall make reparation  
21 or restitution for his or her crime; that the parolee shall abandon evil associates and ways;  
22 and that the parolee shall carry out the instructions of his or her probation/parole  
23 supervisor, and, in general, so comport himself or herself as the ~~parolee's~~ supervisor shall  
24 determine. A violation of the terms of parole may render the parolee liable to arrest and  
25 a return to a penal institution to serve out the term for which the parolee was sentenced.

26 (b) Each parolee who does not have a high school diploma or a general educational  
27 development equivalency diploma (GED) shall be required as a condition of parole to  
28 obtain a high school diploma or general educational development equivalency diploma  
29 (GED) or to pursue a trade at a ~~vocational or technical school~~ college. Any such parolee  
30 who demonstrates to the satisfaction of the board an existing ability or skill which does in  
31 fact actually furnish the parolee a reliable, regular, and sufficient income shall not be  
32 subject to this provision. Any parolee who is determined by the ~~Department of Corrections~~  
33 division or the board to be incapable of completing such requirements shall only be  
34 required to attempt to improve ~~their~~ his or her basic educational skills. Failure of any  
35 parolee subject to this requirement to attend the necessary schools or courses or to make  
36 reasonable progress toward fulfillment of such requirement shall be grounds for revocation

1 of parole. The board shall establish regulations regarding reasonable progress as required  
2 by this subsection. This subsection shall apply to paroles granted on or after July 1, 1995."

### 3 SECTION 46.

4 Said title is further amended by striking subsection (d) of Code Section 42-9-48, relating to  
5 arrest of parolee or conditional release violator, and inserting in lieu thereof the following:

6 "(d) Any probation/parole supervisor, when he or she has reasonable ground to believe that  
7 a parolee or conditional releasee has violated the terms or conditions of his or her parole  
8 or conditional release in a material respect, shall notify the board or some member thereof;  
9 and proceedings shall thereupon be had as provided in this Code section."

### 10 SECTION 47.

11 Said title is further amended by striking Code Section 42-9-57, relating to the effect of parole  
12 on probation and the board's cooperation with local agencies, and inserting in lieu thereof  
13 the following:

14 "42-9-57.

15 Nothing contained in this chapter shall be construed as repealing any power given to any  
16 court of this state to place offenders on probation or to supervise the same nor any power  
17 of any probation agency set up in any county of the state in conjunction with the courts.

18 The board shall be authorized to cooperate with any such agencies, ~~except that it and~~  
19 specifically with the division of probation/parole community based supervision for  
20 purposes of supervising parolees and persons released pursuant to conditional release. The  
21 board shall not assume or pay any financial obligations thereof. ~~The board shall also be~~  
22 ~~authorized to cooperate with the courts for the probation of offenders in those counties in~~  
23 ~~which there is no existing probation agency, when a court so requests~~ of other agencies but  
24 shall share appropriately in the financial obligation of the division of probation/parole  
25 community based supervision for purposes of supervision needs of the board."

### 26 SECTION 48.

27 Said title is further amended by striking subsection (b) of Code Section 42-9-90, relating to  
28 application fee required for parolee transfer consideration, and inserting in lieu thereof the  
29 following:

30 "(b) ~~The Department of Corrections~~ division of probation/parole community based  
31 supervision and the State Board of Pardons and Paroles are authorized to require any  
32 nonindigent adult offender to pay a \$25.00 application fee when applying to transfer his  
33 or her supervision from Georgia to any other state or territory pursuant to the provisions  
34 of Articles 3 and 4 of this chapter."

**SECTION 49.**

Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is amended by striking subsection (b) of Code Section 16-6-5.1, relating to sexual assaults against persons in custody, detained, in hospitals, or involved in psychotherapy, and inserting in lieu thereof the following:

"(b) A probation/parole supervisor or ~~parole~~ probation officer or other custodian or supervisor of another person referred to in this Code section commits sexual assault when he or she engages in sexual contact with another person who is a probationer or parolee under the supervision of said probation/parole supervisor or ~~parole~~ probation officer or who is in the custody of law or who is enrolled in a school or who is detained in or is a patient in a hospital or other institution and such actor has supervisory or disciplinary authority over such other person. A person convicted of sexual assault shall be punished by imprisonment for not less than one nor more than three years."

**SECTION 50.**

Said title is further amended by striking subsection (b) of Code Section 16-10-24, relating to obstructing or hindering law enforcement officers, and inserting in lieu thereof the following:

"(b) Whoever knowingly and willfully resists, obstructs, or opposes any law enforcement officer, prison guard, correctional officer, probation/parole supervisor, ~~parole supervisor~~, or conservation ranger in the lawful discharge of his or her official duties by offering or doing violence to the person of such officer or legally authorized person is guilty of a felony and shall, upon conviction thereof, be punished by imprisonment for not less than one nor more than five years."

**SECTION 51.**

Said title is further amended by striking subsection (a) of Code Section 16-10-33, relating to removal or attempted removal of a weapon from a public official and punishment therefor, and inserting in lieu thereof the following:

"(a) It shall be unlawful for any person knowingly to remove or attempt to remove a firearm, chemical spray, or baton from the possession of another person if:

(1) The other person is lawfully acting within the course and scope of employment; and

(2) The person has knowledge or reason to know that the other person is employed as:

(A) A peace officer as defined in paragraph (8) of Code Section 35-8-2;

(B) A probation/parole officer, or other employee with the power of arrest, by the Department of Corrections or the division of probation/parole community based supervision;

(C) A probation/parole supervisor, or other employee with the power of arrest, by the ~~State Board of Pardons and Paroles~~ division of probation/parole community based supervision;

(D) A jail officer or guard by a county or municipality and has the responsibility of supervising inmates who are confined in a county or municipal jail or other detention facility; or

(E) A juvenile correctional officer by the Department of Juvenile Justice and has the primary responsibility for the supervision and control of youth confined in such department's programs and facilities."

## SECTION 52.

Said title is further amended by striking subsection (d) of Code Section 16-11-37, relating to terroristic threats and acts and penalties therefor, and inserting in lieu thereof the following:

"(d) A person who commits or attempts to commit a terroristic threat or act with the intent to retaliate against any person for:

(1) Attending a judicial or administrative proceeding as a witness, attorney, judge, or party or producing any record, document, or other object in a judicial or official proceeding; or

(2) Providing to a law enforcement officer, adult probation/parole supervisor or juvenile probation officer, prosecuting attorney, or judge any information relating to the commission or possible commission of an offense under the laws of this state or of the United States or a violation of conditions of bail, pretrial release, probation, or parole shall be guilty of the offense of a terroristic threat or act and, upon conviction thereof, shall be punished, for a terroristic threat, by imprisonment for not less than five nor more than ten years or by a fine of not less than \$50,000.00, or both, and, for a terroristic act, by imprisonment for not less than five nor more than 20 years or by a fine of not less than \$100,000.00, or both."

## SECTION 53.

Said title is further amended by striking paragraph (1) of Code Section 16-11-124, relating to exemptions from application of the "Georgia Firearms and Weapons Act," and inserting in lieu thereof the following:

"(1) A peace officer of any duly authorized police agency of this state or of any political subdivision thereof, or a law enforcement officer of any department or agency of the United States who is regularly employed and paid by the United States, this state, or any such political subdivision, or an employee of the Department of Corrections of this state

1 who is authorized in writing by the commissioner of corrections to transfer or possess  
2 such firearms while in the official performance of his or her duties, or an employee of the  
3 division of probation/parole community based supervision of this state who is authorized  
4 in writing by the director of the division of probation/parole community based  
5 supervision to transfer or possess such firearms while in the official performance of his  
6 or her duties;".

#### 7 SECTION 54.

8 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is  
9 amended by striking subsection (a) of Code Section 17-10-1, relating to fixing and  
10 modification of sentences, and inserting in lieu thereof the following:

11 "(a)(1) Except in cases in which life imprisonment, life without parole, or the death  
12 penalty may be imposed, upon a verdict or plea of guilty in any case involving a  
13 misdemeanor or felony, and after a presentence hearing, the judge fixing the sentence  
14 shall prescribe a determinate sentence for a specific number of months or years which  
15 shall be within the minimum and maximum sentences prescribed by law as the  
16 punishment for the crime. The judge imposing the sentence is granted power and  
17 authority to suspend or probate all or any part of the entire sentence under such rules and  
18 regulations as the judge deems proper, including service of a probated sentence in the  
19 sentencing options system, as provided by Article 9 of Chapter 8 of Title 42, and  
20 including the authority to revoke the suspension or probation when the defendant has  
21 violated any of the rules and regulations prescribed by the court, even before the  
22 probationary period has begun, subject to the conditions set out in this subsection;  
23 provided, however, that such action shall be subject to the provisions of Code Section  
24 17-10-6.1.

25 (2) Probation supervision shall terminate in all cases no later than two years from the  
26 commencement of probation supervision unless specially extended or reinstated by the  
27 sentencing court upon notice and hearing and for good cause shown; provided, however,  
28 that, in those cases involving the collection of fines, restitution, or other funds, the period  
29 of supervision shall remain in effect for so long as any ~~such~~ obligation is outstanding, or  
30 until termination of the sentence, whichever first occurs; and provided, further, that,  
31 where a period of post-incarceration probation is increased as a result of parole or other  
32 release as provided in Code Section 17-10-1.3, the otherwise applicable two-year  
33 maximum shall be increased by the amount of time for which the period of  
34 post-incarceration probation is increased. Probation supervision shall not be required for  
35 defendants sentenced to probation while the defendant is in the legal custody of the  
36 Department of Corrections ~~or the State Board of Pardons and Paroles.~~

1 (3)(A) Any part of a sentence of probation revoked for a violation other than a  
2 subsequent commission of any felony, a violation of a special condition, or a  
3 misdemeanor offense involving physical violence resulting in bodily injury to an  
4 innocent victim which in the opinion of the trial court constitutes a danger to the  
5 community or a serious infraction occurring while the defendant is assigned to an  
6 alternative probation confinement facility shall be served in a probation detention  
7 center, probation boot camp, diversion center, weekend lock up, or confinement in a  
8 local jail or detention facility, or other community correctional alternatives available  
9 to the court or provided by the Department of Corrections.

10 (B) A parolee or probationer charged with a misdemeanor involving physical injury  
11 or an attempt to commit physical injury or terroristic threats or with a new felony shall  
12 not be entitled to bond pending a hearing on the revocation of his or her parole or  
13 probation, except by order of a judge of the superior, state, or magistrate court wherein  
14 the alleged new offense occurred after a hearing and upon determination of the superior,  
15 state, or magistrate court that the parolee or probationer does not constitute a threat to  
16 the community; provided, however, that this subparagraph does not authorize state or  
17 magistrate court judges to grant bail for a person charged with any offense listed in  
18 subsection (a) of Code Section 17-6-1.

19 (4) In cases of imprisonment followed by probation, the sentence shall specifically  
20 provide that the period of probation shall not begin until the defendant has completed  
21 service of the confinement portion of the sentence or been released from confinement by  
22 the State Board of Pardons and Paroles as provided in Code Section 17-10-1.3. ~~No~~ With  
23 respect to a sentence entered prior to July 1, 2005, no revocation of any part of a probated  
24 sentence shall be effective while a defendant is in the legal custody of the State Board of  
25 Pardons and Paroles.

26 (5)(A) Where a defendant has been sentenced to probation, the court shall retain  
27 jurisdiction throughout the period of the probated sentence as provided for in subsection  
28 (g) of Code Section 42-8-34. Without limiting the generality of the foregoing, the court  
29 may shorten the period of probation on motion of the defendant or on its own motion,  
30 if the court determines that probation is no longer necessary or appropriate for the ends  
31 of justice, the protection of society, and the rehabilitation of the defendant. Prior to  
32 entering any order for shortening a period of probation, the court shall afford notice to  
33 the victim or victims of all sex related offenses or violent offenses resulting in serious  
34 bodily injury or death, and, upon request of the victim or victims so notified, shall  
35 afford notice and an opportunity for hearing to the defendant and the prosecuting  
36 attorney.



(B) The ~~Department of Corrections~~ division of probation/parole community based supervision shall establish a form document which shall include the elements set forth in this Code section concerning notification of victims and shall make copies of such form available to prosecuting attorneys in the state. When requested by the victim, the form document shall be provided to the victim by the prosecuting attorney. The form shall include the address of the probation/parole community based supervision office having jurisdiction over the case and contain a statement that the victim must maintain a copy of his or her address with the probation/parole community based supervision office and must notify the office of any change of address in order to maintain eligibility for notification by the ~~Department of Corrections~~ division of probation/parole community based supervision as required in this Code section.

(6)(A) Except as otherwise authorized by law, no court shall modify, suspend, probate, or alter a previously imposed sentence so as to reduce or eliminate a period of incarceration or probation and impose a financial payment which:

- (i) Exceeds the statutorily specified maximum fine, plus all penalties, fees, surcharges, and restitution permitted or authorized by law; or
- (ii) Is to be made to an entity which is not authorized by law to receive fines, penalties, fees, surcharges, or restitution.

(B) The prohibitions contained in this paragraph shall apply regardless of whether a defendant consents to the modification, suspension, probation, or alteration of such defendant's sentence and the imposition of such payment.

(C) Nothing in this paragraph shall prohibit or prevent a court from requiring, as a condition of suspension, modification, or probation of a sentence in a criminal case involving child abandonment, that the defendant pay all or a portion of child support which is owed to the custodial parent of a child which is the subject of such case."

## SECTION 55.

Said title is further amended by adding immediately after Code Section 17-10-1.2, relating to oral victim impact statements, a new Code Section 17-10-1.3 to read as follows:

"17-10-1.3.

(a) As used in this Code section, the term 'split sentence' means any felony sentence that includes a term of imprisonment followed by a term of probation.

(b) In any case where a judge on or after July 1, 2005, sentences a defendant to a split sentence, post-incarceration supervision of the defendant shall be conducted exclusively by the division of probation/parole community based supervision and not by the State Board of Pardons and Paroles, regardless of whether the defendant has served the full period of incarceration ordered in the sentence or has been released prior to the full period

1 of incarceration by parole, conditional release, or other action of the State Board of Pardons  
2 and Paroles.

3 (c) Any split sentence order entered on or after July 1, 2005, shall provide that the  
4 post-incarceration period of probation ordered in the sentence shall be increased by an  
5 amount of time equal to any amount of time by which the period of incarceration is  
6 decreased by the State Board of Pardons and Paroles. Such increased portion of the period  
7 of probation shall run concurrently with the period of time by which the period of  
8 incarceration was decreased and shall commence upon the defendant's release from  
9 incarceration. Any split sentence order entered on or after July 1, 2005, which by its terms  
10 fails to so provide for the increased period of probation shall be deemed to so provide by  
11 operation of law.

12 (d) In any case where a judge on or after July 1, 2005, sentences a defendant for a felony  
13 offense to straight probation or to an alternative probation confinement facility, supervision  
14 of the defendant shall be conducted exclusively by the division of probation/parole  
15 community based supervision and not by the state-wide probation system.

16 (e) Nothing in this Code section shall apply to or affect any case in which a pardon is  
17 granted by the State Board of Pardons and Paroles."

#### 18 **SECTION 56.**

19 Said title is further amended by striking subsection (a) of Code Section 17-10-6, relating to  
20 sentence review for sentences of imprisonment exceeding 12 years, and inserting in lieu  
21 thereof the following:

22 "(a) In any case, except cases in which the death penalty is imposed or cases involving a  
23 serious violent felony as defined in subsection (a) of Code Section 17-10-6.1, in which a  
24 sentence of 12 or more years, or several consecutive sentences which total 12 or more  
25 years, has been fixed and imposed by a judge, without a jury, the defendant shall have the  
26 right to have the sentence or sentences reviewed by a panel of three superior court judges  
27 to determine whether the sentence or sentences so imposed are excessively harsh.  
28 Consideration shall be given in the review to the nature of the crime for which the  
29 defendant has been convicted and to the defendant's prior criminal record. Any defendant  
30 seeking a review of such sentence or sentences shall make application therefor within 30  
31 days of the date on which the sentence was imposed by a judge of the superior court or  
32 after the remittitur from the Court of Appeals or Supreme Court affirming the conviction  
33 is made the judgment of the sentencing court, whichever occurs last. The application shall  
34 be filed with the clerk of the superior court in which the sentence was imposed. Upon the  
35 filing of an application the clerk shall transmit the same to the three-judge panel created  
36 under this Code section within ten days of the date on which the application was filed. For

1 such service, the clerk shall receive the fees prescribed in Code Section 15-6-77 from the  
2 funds of the county, except where the clerk is on a salary. It shall be the duty of the judge  
3 imposing the sentence and any probation/parole supervisor ~~officer~~ to transmit, within ten  
4 days of the filing of an application for review of a sentence, a copy of any presentence or  
5 postsentence report prepared by the probation/parole supervisor ~~officer~~, including the  
6 record of the defendant, to the three-judge panel."

#### 7 **SECTION 57.**

8 Said title is further amended by striking subsections (c) and (d) of Code Section 17-10-9.1,  
9 relating to voluntary surrender to county jail or correctional institution and release of  
10 defendant, and inserting in lieu thereof the following:

11 "(c) When a defendant submits a request to the sentencing judge to be allowed to surrender  
12 voluntarily to a county jail or a correctional facility, the judge may consider the request and  
13 if, taking into the consideration the crime for which the defendant is being sentenced, the  
14 history of the defendant, and any other factors which may aid in the decision, the judge  
15 determines that the granting of the request will pose no threat to society, the defendant shall  
16 be remanded to the supervision of a probation/parole supervisor ~~officer~~ by the judge and  
17 ordered to surrender voluntarily to a county jail designated by the court or to a correctional  
18 institution as thereafter designated by the Department of Corrections. The surrender date  
19 shall be a date thereafter specified as provided in subsection (d) of this Code section. The  
20 sentence of any defendant who is released pursuant to this Code section shall not begin to  
21 run until such person surrenders to the facility designated by the court or by the ~~department~~  
22 Department of Corrections, provided that such person will receive credit toward his or her  
23 sentence for time spent in confinement awaiting trial as provided in Code Section 17-10-11.

24 (d) In the event the defendant is ordered to surrender voluntarily to a county jail, the court  
25 shall designate the date on which the defendant shall surrender, which date shall not be  
26 more than 120 days after the date of conviction. When the sentencing judge issues an order  
27 requiring a defendant to surrender voluntarily to a correctional institution, the Department  
28 of Corrections shall authorize the commitment and designate the correctional institution to  
29 which the defendant shall report and the date on which the defendant is to report, which  
30 date shall not be more than 120 days after the date of conviction. Upon such designation,  
31 the ~~department~~ Department of Corrections shall notify the supervising defendant's  
32 probation/parole supervisor ~~officer~~ who shall notify the defendant accordingly.  
33 Subsistence and transportation expenses en route to the correctional institution shall be  
34 borne by the defendant."

**SECTION 58.**

Said title is further amended by striking paragraph (5) of Code Section 17-17-3, relating to definitions in the "Crime Victims' Bill of Rights," and inserting in lieu thereof the following:

"(5) 'Custodial authority' means a warden, sheriff, jailer, deputy sheriff, police officer, correctional officer, officer or employee of the Department of Corrections, division of probation/parole community based supervision, or the Department of Juvenile Justice, or any other law enforcement officer having actual custody of the accused."

**SECTION 59.**

Title 19 of the Official Code of Georgia Annotated, relating to domestic relations, is amended by striking subsection (a) of Code Section 19-7-52, relating to whom child support payments are made, and inserting in lieu thereof the following:

"(a) The court may order that support payments be made to the mother or other interested party, the child support receiver, the prosecuting attorney, the probation officer, the probation/parole supervisor, or the clerk of court, provided that, in those cases where the action has been brought by the Department of Human Resources on behalf of a child, the support payment shall be made to the Department of Human Resources for distribution or to the child support receiver if the Department of Human Resources so requests."

**SECTION 60.**

Said title is further amended by striking Code Section 19-11-21, relating to payment of support to the Department of Human Resources, and inserting in lieu thereof the following:

"19-11-21.

Payment of support pursuant to an administrative determination or a voluntary agreement shall be made to the department. In non-TANF cases, where the department deems it appropriate, it may authorize distribution of the actual payment by other individuals, agencies, or entities and utilize certification schedules reflecting such payments or distributions which the department requires, in accordance with the federal Social Security Act, as amended. Child support which is ordered by a court pursuant to a divorce decree or in any other proceeding in which the responsible parent is required to pay support for his or her child or children, whether the proceeding is civil or criminal, shall be paid by the responsible parent, the clerk of court, the probation officer, the probation/parole supervisor, the child support receiver, or a similar official who is collecting support to the department upon the department's certification that the child is a recipient of public assistance or upon the department's certification that an application has been filed with the department for enforcement of support in accordance with the provisions of the federal Social Security Act."

**SECTION 61.**

Said title is further amended by striking paragraph (4) of Code Section 19-13-51, relating to definitions in the "Family Violence and Stalking Protective Order Registry Act," and inserting in lieu thereof the following:

"(4) 'Law enforcement officer' means any agent or officer of this state, or a political subdivision or municipality thereof, who, as a full-time or part-time employee, is vested either expressly by law or by virtue of public employment or service with authority to enforce the criminal or traffic laws and whose duties include the preservation of public order, the protection of life and property, or the prevention, detection, or investigation of crime. Such term also includes the following: state or local officer, sheriff, deputy sheriff, dispatcher, 911 operator, police officer, prosecuting attorney, member of the State Board of Pardons and Paroles, and a hearing officer and a probation/parole officer of the State Board of Pardons and Paroles, and a probation officer of the Department of Corrections division of probation/parole community based supervision."

**SECTION 62.**

Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is amended by striking subsection (b) of Code Section 40-5-81, relating to attendance at driver improvement programs, and inserting in lieu thereof the following:

"(b) Whenever any person is authorized or required to attend a driver improvement clinic or DUI Alcohol or Drug Use Risk Reduction Program as a condition of any sentence imposed under this title or any ordinance enacted pursuant to this title or as a condition of the retention or restoration of the person's driving privilege, such person, in complying with such condition, shall be authorized to attend any driver improvement clinic or DUI Alcohol or Drug Use Risk Reduction Program certified under this article; and no judicial officer, probation officer, probation/parole supervisor, law enforcement officer, or other officer or employee of a court or person who owns, operates, or is employed by a private company which has contracted to provide private probation services for misdemeanor cases shall specify, directly or indirectly, a particular driver improvement clinic or DUI Alcohol or Drug Use Risk Reduction Program which the person may or shall attend. This Code section shall not prohibit any judicial officer, probation officer, probation/parole supervisor, law enforcement officer, or other officer or employee of a court or owner, operator, or employee of a private company which has contracted to provide probation services for misdemeanor offenders from furnishing any person, upon request, the names of certified driver improvement clinics or DUI Alcohol or Drug Use Risk Reduction Programs."

**SECTION 63.**

Said title is further amended by striking subsection (d) of Code Section 40-5-83, relating to establishment and approval of driving clinics and programs and restrictions, and inserting in lieu thereof the following:

"(d) Notwithstanding the provisions of any law or rule or regulation which prohibits any individual who is a probation officer or other official or employee of the probation division of the Department of Corrections or a spouse of such individual from owning, operating, instructing at, or being employed by a driver improvement clinic, any individual who is a probation officer or other official or employee of the probation division of the Department of Corrections or a spouse of such individual who owns, operates, instructs at, or is employed by a driver improvement clinic on June 1, 1985, and who in all respects is and remains qualified to own, operate, instruct at, or be employed by a driver improvement clinic is expressly authorized to continue on and after June 1, 1985, to engage in such activities. Any individual who is a probation/parole supervisor or other official or employee of the division of probation/parole community based supervision or a spouse of such individual who owns, operates, instructs at, or is employed by a driver improvement clinic on June 1, 2005, and who in all respects is and remains qualified to own, operate, instruct at, or be employed by a driver improvement clinic is expressly authorized to continue on and after June 1, 2005, to engage in such activities. No person who owns, operates, or is employed by a private company which has contracted to provide probation services for misdemeanor cases shall be authorized to own, operate, be an instructor at, or be employed by a driver improvement clinic or a DUI Alcohol or Drug Use Risk Reduction Program."

**SECTION 64.**

Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees, is amended by striking paragraph (8) of Code Section 45-9-81, relating to definitions concerning the Georgia State Indemnification Fund, and inserting in lieu thereof the following:

"(8) 'Prison guard' means any person employed by the state or any political subdivision thereof whose principal duties relate to the supervision and incarceration of persons accused or convicted of the violation of the criminal laws of this state or any political subdivision thereof. Such term shall also mean any probation/parole supervisor or parole officer who is required to be certified under Chapter 8 of Title 35, the 'Georgia Peace Officer Standards and Training Act,' and whose principal duties directly relate to the supervision of adult probationers or adult parolees. Such term also means any person employed by the state or any political subdivision thereof whose principal duties include

1 the supervision of youth who are charged with or adjudicated for an act which if  
2 committed by adults would be considered a crime."

3 **SECTION 65.**

4 This Act shall become effective July 1, 2005, and shall apply with respect to sentences  
5 entered on or after that date.

6 **SECTION 66.**

7 All laws and parts of laws in conflict with this Act are repealed.